

AMENDED IN SENATE MARCH 20, 2002

SENATE BILL

No. 1386

Introduced by Senator Peace

February 12, 2002

An act to amend Section ~~6253~~ 11019.9 of the Government Code, relating to ~~public records~~ *privacy*.

LEGISLATIVE COUNSEL'S DIGEST

SB 1386, as amended, Peace. Public records : *privacy*.

The California Public Records Act requires state and local agencies to make public records available upon receipt of a request that reasonably describes an identifiable record not otherwise exempt from disclosure by express provisions of law, and upon payment of fees to cover costs. ~~Existing~~

Existing law also requires a state department or agency to enact and maintain a permanent privacy policy ~~that includes, among other provisions, a means for protecting personal data the department or agency collects against unauthorized disclosure, as specified~~ *consistent with specified principles*.

This bill would ~~specify that the provision requiring a~~ *provide that information withheld pursuant to this privacy policy is among those express provisions of law that may exempt a public record from not subject to disclosure under the California Public Records Act.*

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 ~~SECTION 1. Section 6253 of the Government Code is~~

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1 SECTION 1. *Section 11019.9 of the Government Code is*
2 *amended to read:*

3 11019.9. (a) Each state department and state agency shall
4 enact and maintain a permanent privacy policy, in adherence with
5 the Information Practices Act of 1977 (Title 1.8 (commencing
6 with Section 1798) of Part 4 of Division 3 of the Civil Code), that
7 includes, but is not limited to, the following principles:

8 ~~(a)–~~

9 (1) Personally identifiable information is only obtained
10 through lawful means.

11 ~~(b)–~~

12 (2) The purposes for which personally identifiable data are
13 collected are specified at or prior to the time of collection, and any
14 subsequent use is limited to the fulfillment of purposes not
15 inconsistent with those purposes previously specified.

16 ~~(c)–~~

17 (3) Personal data shall not be disclosed, made available, or
18 otherwise used for purposes other than those specified, except with
19 the consent of the subject of the data, or as authorized by law or
20 regulation.

21 ~~(d)–~~

22 (4) Personal data collected must be relevant to the purpose for
23 which it is collected.

24 ~~(e)–~~

25 (5) The general means by which personal data is protected
26 against loss, unauthorized access, use, modification or disclosure
27 shall be posted, unless that disclosure of general means would
28 compromise legitimate state department or state agency objectives
29 or law enforcement purposes.

30 ~~(f)–~~

31 (b) Each state department or state agency shall designate a
32 position within the department or agency, the duties of which shall
33 include, but not be limited to, responsibility for the privacy policy
34 within that department or agency.

35 (c) *Information withheld pursuant to this section is not subject*
36 *to disclosure under the California Public Records Act (Chapter 3.5*
37 *(commencing with Section 6250) of Division 7 of Title 1).*

38 ~~amended to read:~~

39 ~~6253. (a) Public records are open to inspection at all times~~
40 ~~during the office hours of the state or local agency and every~~

1 person has a right to inspect any public record, except as hereafter
2 provided. Any reasonably segregable portion of a record shall be
3 available for inspection by any person requesting the record after
4 deletion of the portions that are exempted by law.

5 ~~(b) Except with respect to public records exempt from~~
6 ~~disclosure by express provisions of law, including Section~~
7 ~~11019.9, each state or local agency, upon a request for a copy of~~
8 ~~records that reasonably describes an identifiable record or records,~~
9 ~~shall make the records promptly available to any person upon~~
10 ~~payment of fees covering direct costs of duplication, or a statutory~~
11 ~~fee if applicable. Upon request, an exact copy shall be provided~~
12 ~~unless impracticable to do so.~~

13 ~~(c) Each agency, upon a request for a copy of records, shall,~~
14 ~~within 10 days from receipt of the request, determine whether the~~
15 ~~request, in whole or in part, seeks copies of disclosable public~~
16 ~~records in the possession of the agency and shall promptly notify~~
17 ~~the person making the request of the determination and the reasons~~
18 ~~therefor. In unusual circumstances, the time limit prescribed in this~~
19 ~~section may be extended by written notice by the head of the~~
20 ~~agency or his or her designee to the person making the request,~~
21 ~~setting forth the reasons for the extension and the date on which~~
22 ~~a determination is expected to be dispatched. No notice shall~~
23 ~~specify a date that would result in an extension for more than 14~~
24 ~~days. When the agency dispatches the determination, and if the~~
25 ~~agency determines that the request seeks disclosable public~~
26 ~~records, the agency shall state the estimated date and time when the~~
27 ~~records will be made available. As used in this section, “unusual~~
28 ~~circumstances” means the following, but only to the extent~~
29 ~~reasonably necessary to the proper processing of the particular~~
30 ~~request:~~

31 ~~(1) The need to search for and collect the requested records~~
32 ~~from field facilities or other establishments that are separate from~~
33 ~~the office processing the request.~~

34 ~~(2) The need to search for, collect, and appropriately examine~~
35 ~~a voluminous amount of separate and distinct records that are~~
36 ~~demanding in a single request.~~

37 ~~(3) The need for consultation, which shall be conducted with~~
38 ~~all practicable speed, with another agency having substantial~~
39 ~~interest in the determination of the request or among two or more~~

1 ~~components of the agency having substantial subject matter~~
2 ~~interest therein.~~

3 ~~(4) The need to compile data, to write programming language~~
4 ~~or a computer program, or to construct a computer report to extract~~
5 ~~data.~~

6 ~~(d) Nothing in this chapter shall be construed to permit an~~
7 ~~agency to delay or obstruct the inspection or copying of public~~
8 ~~records. The notification of denial of any request for records~~
9 ~~required by Section 6255 shall set forth the names and titles or~~
10 ~~positions of each person responsible for the denial.~~

11 ~~(e) Except as otherwise prohibited by law, a state or local~~
12 ~~agency may adopt requirements for itself that allow for faster,~~
13 ~~more efficient, or greater access to records than prescribed by the~~
14 ~~minimum standards set forth in this chapter.~~

